



Policy: 4010
Procedure: 4010.05
Chapter: Classification and Case Management
Rule: Required Deoxyribonucleic Acid (DNA) Blood/Buccal Testing

Effective:
Replaces: 3401.01
Dated: 02/08/02

Purpose:

For all juveniles committed to Arizona Department of Juvenile Corrections (ADJC) for an offense for which Deoxyribonucleic Acid (DNA) testing is required, ADJC shall secure a Buccal DNA sample. This sample shall be obtained in a manner consistent with the Arizona Department of Public Safety's (DPS) Crime Lab specifications using the Offender Buccal DNA Collection Kit supplied by DPS.

Rules:

1. Upon entry of a new commitment or a juvenile's return from court or admission to the Reception, Assessment, and Classification (RAC) unit, the **ASSIGNED YOUTH PROGRAM OFFICER (YPO) III** shall examine the county commitment packet or court documentation to identify those juveniles who are subject to required DNA testing, pursuant to ARS § 13-610, based on the adjudicated offense for which the juvenile is adjudicated and committed or re-awarded to ADJC. Specifically, those offenses and attempted offenses for which DNA testing is required include (note that you must check a delinquency under both a and b):
 - a. **By Class and Nature of Felony:**
 - i. **Any felony offense committed by a chronic felony offender after January 1, 2004. "Chronic felony offender" means a juvenile who has had two prior and separate adjudications and dispositions for conduct that would constitute a historical prior felony conviction if the juvenile had been tried as an adult:**
 - ii. **All Class 1 or 2 Felonies after January 1, 2004;**
 - iii. **All Class 2 Drug Related Felonies, § 13-3401 through § 13-3422, if Felony 2 and at least 14 years of age;**
 - iv. **A Class 3 Felony in violation of any offense in chapters 10 through 17 or chapter 19 or 23 of Title 13 after January 1, 2004:**
 - (1) Chapter 10, Preparatory Offenses, § 13-1001 through § 13-1006;
 - (2) Chapter 11, Homicide, § 13-1101 through § 13-1105;
 - (3) Chapter 12, Assault and Related Offenses, § 13-1201 through § 13-1213;
 - (4) Chapter 13, Kidnapping and Related Offenses, § 13-1301 through § 13-1309;
 - (5) Chapter 14, Sexual Offenses, § 13-1401 through § 13-1424;
 - (6) Chapter 15, Criminal Trespass and Burglary, § 13-1501 through § 13-1508;
 - (7) Chapter 16, Criminal Damage to Property, § 13-1601 through § 13-1605;
 - (8) Chapter 17, Arson, § 13-1701 through § 13-1709;
 - (9) Chapter 19, Robbery, § 13-1901 through § 13-1904;
 - (10) Chapter 23, Organized Crime, Fraud, and Terrorism, § 13-2301 through § 13-2319.
 - v. **All Class 3, 4, 5, or 6 Felonies after January 1, 2004** involving the intentional or knowing infliction of serious physical injury or the discharge, use, or threatening exhibition of a deadly weapon or dangerous instrument; and
 - vi. **Any offense after January 1, 2004** that is properly joined to an offense listed in this section.
 - b. **By Specific Statute Number, in addition to the above:**
 - § 13-1102, Negligent Homicide;
 - § 13-1103, Manslaughter;
 - § 13-1104, Second Degree Murder;
 - § 13-1105, First Degree Murder;
 - § 13-1204(A)(1), Aggravated Assault, **if felony and after January 1, 2004;**

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§ 13-1204(A)(2), Aggravated Assault involving the use of a deadly weapon, **if Felony and after January 1, 2004;**
§ 13-1209, Drive by Shooting, **if felony and after January 1, 2004;**
§ 13-1211, Discharging a Firearm at a Structure, **if felony and after January 1, 2004;**
§ 13-1303, Unlawful Imprisonment, **if the victim is under 18 but not own child;**
§ 13-1304, Kidnapping, **if the victim is under 18 but not own child;**
§ 13-1307, Sex Trafficking, **if victim is a minor;**
§ 13-1402, Indecent Exposure, **if felony or if second violation;**
§ 13-1403, Public Sexual Indecency, **if felony or if second violation;**
§ 13-1404, Sexual Abuse;
§ 13-1405, Sexual Conduct with a Minor;
§ 13-1406, Sexual Assault;
§ 13-1410, Molestation of a Child;
§ 13-1411, Bestiality;
§ 13-1417, Continuous Sexual Abuse of a Child;
§ 13-1423, Violent Sexual Assault;
§ 13-1424, Voyeurism;
§ 13-1507, Second Degree Burglary;
§ 13-1508, First Degree Burglary;
§ 13-1904, Armed Robbery, **if felony and after January 1, 2004;**
§ 13-3206, Taking a Child for the Purpose of Prostitution;
§ 13-3212, Child Prostitution;
§ 13-3552, Commercial Sexual Exploitation of a Minor;
§ 13-3553, Sexual Exploitation of a Minor;
§ 13-3554, Luring a Minor for Sexual Exploitation;
§ 13-3558, Admitting Minors to Public Displays of Sexual Conduct;
§ 13-3608, Incest;
§ 13-3822, Failure to Register as Sex Offender;
§ 13-3824, Failure to Register as Sex Offender.

2. Within 30 days of juvenile commitment, **ADJC** shall secure a DNA bodily fluid sample sufficient for DNA testing from the juvenile if the juvenile was adjudicated delinquent and committed to ADJC for an offense or attempt to commit an offense listed in this procedure.
3. If a juvenile is accepted by ADJC pursuant to the Interstate Compact on juveniles and is adjudicated for an offense listed in this procedure, the **INTERSTATE COMPACT ADMINISTRATOR** shall:
 - a. If the sending state does not impose as a condition of supervision that the juvenile submit a DNA bodily fluid sample, request a DNA bodily fluid sample sufficient for deoxyribonucleic acid testing within 30 days of the juvenile's arrival in this state:
 - i. Another test is not necessary if a record of that test exists.
4. In accordance with the Youth Program Officer III (YPO) Case Management Standards, the **RAC OR UNIT YPO III** shall:
 - a. Complete all required Risk, Assessment, and Classification (RAC) duties as it pertains to the DNA offense(s) which may include, but not be limited to:
 - i. Completion of the Criminal History; and
 - ii. Needs Survey/Strategies of Juvenile Supervision.
 - b. Fax a request for verification using Form 4010.01A DNA Information Request to the DPS Crime Lab to determine whether a DNA sample is already on record for that juvenile;
 - c. If a DNA sample is not on record, arrange for the DNA sample to be taken by:
 - i. Requesting a date for the DNA sampling from the Lieutenant by submitting a copy of the verified fax form to the Lieutenant;

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- ii. Providing the Attorney General Liaison (AGL) with the DPS verified fax Form 4010.01A DNA Information Request identifying the juvenile pending DNA sampling. The **AGL** shall:
 - (1) Ensure that all legal conflicts relating to any appeals have been resolved before authorizing the RAC or Unit YPO III to request the DNA sample to be taken. The sample is to be obtained no sooner than 15 days after the final order committing the juvenile to ADJC is filed with the clerk of the court:
 - (a) If the juvenile has filed an appeal from the final order committing him or her to ADJC, no sample shall be sought until verification of a mandate upholding the challenged adjudication;
 - (b) The **AGL** shall review and return Form 4010.01A DNA Information Request specifying the authorization to proceed;
 - (c) A copy of this authorization shall be maintained in the juvenile's file;
 - (d) The **RAC OR UNIT YPO III** may contact the AGL if a response is not received two weeks from the date of submission of Form 4010.01A DNA Information Request.
 - iii. Requesting a date for the DNA sampling from the Lieutenant. The request is to be made by submitting a copy of the verified fax form to the Lieutenant;
 - iv. Sending the parent/guardian notice using Form 4010.01B Parent Letter pursuant to ARS § 13-610;
 - v. Securing a response from the Lieutenant within seven days of receiving the referral. The scheduled date shall not be sooner than seven days from the referral for DNA sampling;
 - vi. Following up on the juvenile who refuses to give a sample by:
 - (1) Obtaining the sample within 30 days of the juvenile's commitment before the juvenile is eligible for release from secure care;
 - (2) Notifying the AGL if the juvenile reaches this 30 day limit and continues to refuse to submit the required DNA sample. The **AGL** shall then:
 - (a) Consider the circumstances of the refusal; and
 - (b) Assess the need for obtaining a specific court order to obtain the DNA sample.
 - (3) Documenting all efforts to secure a DNA sample in the juvenile's Field File.
 - vii. Documenting information, that the DNA sample is reported as being on record, in the Field File and in the Contacts section in Windows Youthbase citing the date and source of the information.
5. The **LIEUTENANT** shall ensure the integrity of the DNA sample taken by overseeing the full process and completing the necessary documentation. The **LIEUTENANT OR DESIGNEE**, shall:
- a. Provide the YPO III with a response by completing section III of Form 4010.01A DNA Information Request;
 - b. Return the request Form 4010.01A to the YPO III within seven days of receiving the request, confirming receipt and the time designated for the DNA sample to be collected and that the scheduled date is not sooner than seven days of receipt of the referral for DNA sampling;
 - c. Assign this responsibility to a designee, if necessary. However, once the process has begun ensure the responsibility remains with the same assigned employee specific to each juvenile required to submit a DNA sample;
 - d. Ensure on the date of the scheduled DNA sampling:
 - i. All juveniles are present at the designated area 10 minutes prior to the scheduled appointment;
 - ii. Ample Buccal DNA Collection Kits and DPS Data Bank CMP-038-00 forms are available and maintained in a secured area; and
 - iii. The Buccal Collector enclosed in the Buccal Collection Kit is handled using approved disposable gloves.

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6. When prepared to provide the information required in the Buccal DNA Collection Kit the **LIEUTENANT OR DESIGNEE**, shall:
- a. Complete the enclosed DNA Data Bank Form with all information including juvenile's name and signature;
 - b. Obtain the juvenile's fingerprints:
 - i. Ensure the juvenile's hands are clean and dry;
 - ii. Ink both thumb fingers using a pre-inked Porelon pad; and
 - iii. Press gently the juvenile's finger within the designated area of this form. The completed prints must show clear ridge detail. Unacceptable prints shall result in the rejection of the entire collection.
 - c. Open the Buccal DNA Collector and write the juvenile's name in the space provided on the collector handle;
 - d. Collect the DNA Sample by:
 - i. Using gloves to protect sample from contamination, removing Buccal DNA Collector from pouch, holding the thick portion of the handle at the base of the blue cap, removing, and saving the blue cap;
 - ii. Holding the Buccal DNA Collector with thumb on the area marked Thumb on the back of the Collector;
 - iii. Instructing the juvenile to open mouth and placing the Collecting Paper side against inside of cheek;
 - iv. With Collecting Paper pressed against inside of cheek, dragging it firmly toward lips and out of mouth. To avoid damaging Collecting Paper, **only** drag collector in **one** direction toward opening of mouth;
 - v. Repeating this action seven more times. **Do not** rub Collector back and forth against the cheek. **NOTE:** It is important to observe pressing Collecting Paper against cheek and dragging it across cheek during collection; and
 - vi. While holding Buccal DNA Collector Handle, replacing blue cap carefully covering Collecting Paper. To avoid sample contamination, **do not** touch Collecting Paper with your hand.
 - e. When finished, place collector inside Transport Pouch included in kit and seal the pouch;
 - f. Make two copies of the DNA Data bank form. Forward one copy to the juvenile's location to be placed in the Field File and a copy to Central Office Records Department;
 - g. Insert completed form and seal Transport Pouch in the pre-printed return envelope. Press and seal the envelope.
 - h. Mail the sealed kit to the Convicted Offender DNA Database Unit. No postage is necessary and address is provided; or
 - i. Hand-deliver the sealed kit to Arizona DPS property and evidence location.

Signature Date

1/04/08

Approved by Process Owner

Louis A. Goodman, Esq., Assistant Director of Legal Systems
Division

Effective Date

1/08/08

Approved by

Michael D. Branham, Director